

REMARKS

The examiner rejects claims 15-16 and 19 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 20 has been newly added. Claims 1-14 and 17-18 stand withdrawn. Claims 1-20 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current claims 15-16, 19, and 20. An early Notice of Allowance is therefore requested.

I. REJECTION OF CLAIMS 15-16 AND 19 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

On page 2 of the current Office Action, the examiner rejects claims 15-16 and 19 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner contends that there is insufficient written description to demonstrate that the applicant was in possession of the claimed genus of “variation” of SEQ ID Nos: 33-55 that differ by “no more than 8 nucleotides” or “no more than 2 nucleotides”. This, however, misinterprets the disclosure of the current application.

Paragraph [10] of the current Application specifically states:

“Also considered within the scope of the present invention are nucleotide sequences that differ from SEQ ID Nos: 1 through 55 **that differ by up to eight nucleotides**, but more often by one or **two nucleotides.**” (emphasis added).

This portion of the specification provides direct support for the language of Claim 15 which states, in part:

“wherein each of SEQ ID Nos: 33-55 consists of the respective specific sequences set forth in Table 2 of the Specification **and variations thereof that differ by no more than eight nucleotides.**” (emphasis added).

Paragraph [10] of the current Application also provides direct support for the language of Claim 19 which states, in part:

“wherein each of SEQ ID Nos: 33-55 consists of the respective specific sequences set forth in Table 2 of the Specification **and**

variations thereof that differ by no more than two nucleotides.”
(emphasis added).

As such, Applicants respectfully assert that Examiner has failed to establish a prima facie case that claims 15-16 and 19 fail to comply with the written description requirement. Therefore, Applicants respectfully request that Examiner remove the rejection of claims 15-16 and 19 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

II. NEW CLAIM 20

Claim 20 is dependent upon Claim 15. As Claim 15 is allowable, so must be Claim 20.

In addition, Claim 20 has been added to further clarify a subset of the SEQ ID NOs: 33-55 of Claim 15, wherein the variations which differ by no more than eight nucleotides are limited to those variations that consist of no more than eight additional nucleotides in total appended to either end of the SEQ ID Nos: 33-55. As such, the core structure of each of SEQ ID Nos: 33-55 remains the same.

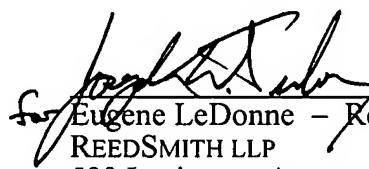
Accordingly, Applicants respectfully assert that Claim 20 is in allowable form. Therefore, Applicants respectfully request the Examiner allow Claim 20.

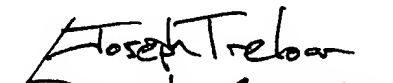
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Based upon the above remarks, Applicants respectfully request reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicants' attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,


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